United Nations S/2003/436

Security Council

Distr.: General
17 April 2003

Original: English

Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Swaziland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 3 April 2003 from the Permanent Mission of Swaziland to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Kingdom of Swaziland to the United Nations presents its compliments to the Chairman of the Security Council Committee on Counter-Terrorism and has the honour to recall Security Council resolution 1373 (2001) and in particular paragraph 6 of that resolution, which calls upon all States to report to the Counter-Terrorism Committee on the steps taken to implement that resolution.

In this regard, the Permanent Mission of the Kingdom of Swaziland to the United Nations on behalf of His Majesty's Government is honoured to submit Swaziland's first country report on the implementation of resolution 1373 (2001) (see enclosure).

Enclosure

Security Council resolution 1373 (2001): Swaziland report on implementation

SECTION A: OPERATIVE PARAGRAPH 1

The implementation of operative paragraph 1 (a) to (d) of Security Council resolution 1373 (2001)

Question 1: What relevant legislation (including regulations or other legislative machinery) is in place or is contemplated to give effect to the measures contained in operative paragraph 1 (a) to (d) of resolution 1373 (2001)?

At this stage, Swaziland does not have legislation to prevent or suppress the financing of terrorist activity. There is no statutory definition of terrorism in the laws of Swaziland. A statute under consideration, the Internal Security Bill, is the closest the country has come to proscribing terrorism, and terrorist funding. The Bill purports to criminalize acts of insurgency, banditry or sabotage. Acts of insurgency are confined to acts directed at or targeting the government of Swaziland; which suggests that the Bill would not apply in the case of activity directed at foreign governments or nationals, such as the destruction by explosives of a foreign embassy, or the attack of foreign nationals.

The Bill stipulates that insurgency, banditry or sabotage is:
'any act, including the killing or injuring of persons, the damaging or destroying of property or the disruption of communications, which-

(a) is accompanied by the use or threatened use of weaponry, and
(b) has or is likely to have either or both of the following results –
    (i) causing or furthering an insurrection in or forcible resistance to the government or the Defence Force or any law enforcement agency;
    (ii) procuring by force the alteration of any law or policy of the Government.'

The recruitment, or provision of training of insurgents, saboteurs and bandits, is prohibited, as is the provision of financial support to an insurgent, bandit or saboteur. The prescribed punishment is imprisonment of up to twenty years.

The assets of an association of insurgents, bandits or saboteurs may be frozen by a court order at the instance of the Attorney General. In the event of conviction of a member, the court may go on to make a forfeiture order.

The Bill is attached to the report, marked Annexure 'A'.

The Money Laundering Prevention Act 2001 does not encompass the financing of terrorism in its definition of money laundering, although it could be used against the proceeds of terrorist activity. If funds destined to support terrorism were channeled through any of the accountable institutions to which the Act applies, whether the transaction attracts the attention of the regulatory Supervisory Authority (Central bank governor) would depend on whether the manner in which the transaction was conducted

was 'suspicious'. As the law stands however, the processing of funds **destined** to fund terrorist activity outside Swaziland, (assuming this practical hurdle was overcome) would not be an offence. There would therefore be no obligation on the relevant accountable institution to report it. More importantly, an accountable institution that reports a transaction of this nature would not be indemnified against legal action at the instance of the depositor or other party with locus standi, who thereby sustained prejudice.

It is conceivable that the Prevention of Violence Abroad Act (1963) cited below (p.5) might be invoked, although the Act does not provide for freezing of assets or impose any duty on any financial institution.

Question 2: What executive action has been taken or is contemplated to give effect to the measures contained in paragraph 1 (a) to (d) of resolution 1373 (2001)?

(1) The Office of the Prime Minister has as of the 11th March, 2003 directed the Ministry of Foreign Affairs to take the necessary steps to ratify (that is preparing the instruments for deposit) the remaining nine (9) Conventions, namely

(a) Internationally Protected Persons, 1973;
(b) Taking of Hostages, 1979;
(c) Protection Nuclear Material,1980;
(d) Rome Convention, 1988;
(e) Rome Protocol, 1988;
(f) Safety of Maritime Navigation, 1988;
(g) Marking of Plastic Explosives, 1991;
(h) Suppression of Terrorist Bombings, 1997;
(i) Suppression of Terrorist Financing.

(2) As of the 28th March, 2003 the Executive through the Ministry of Foreign Affairs sent instruments of ratification (in our case accession) for deposit to the Depositories.

(3) Cabinet has further, on the belief that the under-mentioned Acts are somehow deficient, approved the -

(a) the drafting of a new Suppression of Terrorism Bill;
(b) amendment of the Money Laundering Act, 2001;
(c) amendment of the Criminal Matters (Mutual Assistance), 2001;
(d) amendment of the Serious Offences (Proceeds of Crime) Act, 2001.

Question 3: What other action, if any, has so far been taken to implement the letter and spirit of paragraph 1(a) to (d) of resolution 1373 (2001) or is contemplated?

None taken except as stated above, although the Prime Minister's office is expected to report on the matter as soon as any other or further action is taken.

Question 4: What steps are being taken to enhance international co-operation in the areas covered by paragraph 1 (a) to (d) of resolution 1373 (2001)? What international agreements have been ratified or acceded to?

Swaziland is a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), which seeks to foster regional co-operation in combating money laundering.

Swaziland is also a member of the Southern Africa Police Chiefs Co-operation Organisation (SARPCCO), which prioritises combating terrorism.

Swaziland is also party to the Agreement in Respect of Co-operation and Mutual Assistance in the Field of Crime Combating. The agreement binds twelve countries in Southern Africa, and regulates law enforcement capacity of police agencies in the region.

Question 5: Operative sub-paragraph 1(a): What measures, if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

The first serious financial enforcement controls were initiated by the commercial banks with the introduction of a Fraud Liaison Committee, comprising representatives of the banks, Royal Swaziland Police (Fraud Unit), the Director of Public Prosecutions, members of the Anti Corruption unit and senior officials of the Central Bank.

The fraud liaison committee has been instrumental in bringing a number of money laundering related practices to the attention of the police for further investigation. There is no indication that the committee has been used in detecting possible and actual terrorist funding, but it could be developed to perform such a function.

Question 6: Operative sub-paragraph 1(b): What are offences and penalties in your country with respect to the activities listed in this sub-paragraph?

The measures proposed in the Internal Security Bill as described above, can be utilised for this. Among them are offences against public security, recruitment for terrorist acts, training terrorists, supply of weapons, and possession of weaponry, for any of which acts **imprisonment for up to twenty years** is the penalty. For harbouring, concealing or failing to report the presence of insurgents a five-year jail term may be imposed with the alternative of a fine of E10 000 (approximately US$1 000). Financing the proscribed activities will carry a punishment of **imprisonment of up to twenty years.**

Question 7: Operative sub-paragraph 1(c): What legislative procedures exist for freezing accounts and assets at banks and financial institutions? It would be help if States supplied examples of any relevant action taken.

Generally, the Prevention of Corruption Order, the Serious Offences (Confiscation of Proceeds) Act (2001), and the Money Laundering Prevention Act provide the legislative framework for the freezing of accounts and assets held at financial institutions.

The Serious Offences (Confiscation of Proceeds) Act, addresses the issue of forfeiture of instruments by which crime in general, and economic crime in particular is committed. The Act defines the term 'proceeds of serious crime' widely, as 'any property used in or in connection with the commission of a serious offence or any property that is derived or realised directly or indirectly by any person from the commission of any offence or from

any act or omission which had it occurred in Swaziland would have constituted a serious offence.' The underlining has been added for emphasis.

The Director of Public Prosecutions may make an application for a forfeiture order following a conviction. Notice of the application should be given, and the affected parties given a chance to be heard and to testify. The court has discretion to grant or refuse the application. Judicial discretion is to be guided by the following factors:[1]

- The ordinary uses of the property whose forfeiture is sought;
- The use that was intended for the property in the instant case;
- The likely effect that forfeiture will have on any person;
- The gravity of the underlying offence.

The emphasis on proportionality between the public interest served by forfeiture and the private property interests of the person(s) affected by the forfeiture is evident.

The Money Laundering Prevention Act is directed at preventing money laundering and provide for related matters. The definition is clear as to the scope of the concept of laundering. These are proceeds of crime. The Act does not envisage that assets intended to fund criminal activity in general, and terrorism in particular, could be laundered. However, Part V of the Act, which relates to international co-operation, indicates awareness that foreign jurisdictions may have a broader conceptualization, which includes 'instruments connected to money laundering'. In section 22(3) the Act allows judicial notice of a foreign forfeiture order of such instruments by the courts of Swaziland. At the same time, subsection (6) appears to confine such notice to jurisdictions with which Swaziland shares mutual assistance treaties. The terms of each treaty will presumably incorporate a mutually acceptable definition of money laundering.

The legislative framework in the Serious Offences (Confiscation of Proceeds) Act is for criminal rather than civil forfeiture. Forfeiture is contingent upon the conviction of the person against whom it is principally made.

The Act imposes a duty on third parties with an interest in the property, which is at risk of forfeiture to show an innocent connection with the property. The declaration of forfeiture does not affect the property rights of a third party who can show that he did not know that it was being used or would be used in committing crime. The third party has a right of appeal if the trial court should rule against him.

An application for forfeiture in terms of the Serious Offences (Confiscation of Proceeds) Act may be preceded by a 'restraining order' in respect of:

- specified property of the suspect, or
- all of his property, or
- specified property of some other person, alleged to have been used in, or in connection with, the commission of the offence or derived or realised, directly or indirectly, as a result of the commission of the offence.

The order lies at the instance of the Director of Public Prosecutions, on notice to the suspect. Notice need not be given in an urgent matter or where it is not in the public interest to give notice.

[1] Listed in section 4 (2) of the Act

Question 8: Operative sub-paragraph 1(d): What measures exist to prohibit the activities listed in this sub-paragraph?

The Prevention of Corruption Order No. 19 of 1993, though not directly to the point, may be used as a measure to check and investigate nationals, any person and entities to ensure that no funds, properties or financial resources are made available to facilitate the commission of terrorists acts.

> Section 2 of this legislation defines -"private body" to mean any person or organisation not being a public body and it also means a voluntary organization, charitable institution, club, company, firm or partnership;
>
> and - "**public office**" as includes judicial office or any office or position (whether full time or not) held by any person engaged in a public body **or private body** or any office or position (whether full time or not) in respect of which emoluments or allowances are payable from public funds or from Swazi National Treasury;
>
> while "public officer" means the holder of a **public office**;

Section 26 provides -

Possession without reasonable explanation of property, etc.

26. (1) Any person who being or having been a public officer —

(a) maintains a standard of living above that which is commensurate with his present or past official emoluments;

(b) or is in control of pecuniary resources or property disproportionate to his present or past official emoluments; shall., unless he gives a satisfactory explanation to the court as to how he was able to maintain such standard of living or how such pecuniary resources or property came under his control, be presumed to have maintained such standard of living or acquired such pecuniary resources or property as the result of the commission of an offence under section 20, 21, 22 or 25 of this Part *(ten thousand Emalangeni fine or five year imprisonment and forfeiture)*.....

(2) If the Commissioner has reasonable grounds to suspect that any person who has no known source of income or who is not known to be engaged in any gainful employment possesses or is in control of any property or pecuniary resources, the Commissioner shall request such person to give satisfactory explanation in writing as to how the property or pecuniary resources have been acquired by him or come under his control, and if such person is unable to give any satisfactory explanation he shall be guilty of an offence and liable on conviction to the penalty prescribed in section 23 *(ten thousand or five year imprisonment)*

As stated the Prevention of Corruption Order may be used to **require persons and entities to account for large sums of monies found to be in their control or possession,** in the absence of appropriate legislation. Swaziland certainly needs legislation to accommodate the concerns of this sub paragraph and as pointed out above under *Question 2* some legislative amendments shall be put in place.

SECTION B: OPERATIVE PARAGRAPH 2

The implementation of operative paragraph 2(a) to (g) of Security Council resolution 1373 (2001)

Question 1: What relevant legislation (including regulations or other legislative machinery) is in place or is contemplated to give effect to the measures contained in operative paragraph 2(a) to (g) of resolution 1373 (2001)?

The Prevention of Violence Abroad Act (27/1963) provides:

'2. (1) any person who, while in Swaziland –

(a) conspires with any other person to commit within a state or territory other than Swaziland, or to aid or procure the commission within such state or territory of an act of violence the commission of which –

(i) is an offence under the law of such state or territory; and

(ii) in Swaziland would be an offence under the law of Swaziland; or

(b) incites, instigates, commands or procures any other person to commit within such state or territory any such act;

shall be guilty of an offence and liable, on conviction, to imprisonment not exceeding three years or a fine not exceeding one thousand Emalangeni.

(2) References in this Act to the commission of acts of violence include references to omissions done with the intention of causing violence.'

Prosecutions in terms of the Act require the written consent of the Attorney General.

Question 2: What executive action has been taken or is contemplated to give effect to the measures contained in paragraph 2(a) to (g) of resolution 1373 (2001)?

In recent history there has been no reason to prosecute any person under this Act We further believe we do need a comprehensive legislation to consolidate various pieces of legislation promulgated without foresight or anticipation of the emergence of terrorism.

Question 3: What other action, if any, has so far been taken to implement the letter and spirit of paragraph 2(a) to (g) of resolution 1373 (2001) or is contemplated?

Swaziland as a small country with an estimated population of a million people and the majority of people are related to one another (every body knows who is who) and this makes the **Neighbourhood Watch Scheme** very effective. At present the Swazi people are not yet sophisticated in arms of war and explosives. Foreigners are easily detected or identified in the Country hence the success of the Neighbourhood Watch Scheme.

Question 4: What steps are being taken to enhance international co-operation in the areas covered by paragraph 2(a) to (g) of resolution 1373 (2001)? What international agreements have been ratified or accede to?

Swaziland is a member of the International Police Organisation (Interpol) with an obligation to co-operate with other members in combating trans-national organised crime, including terrorism.

While it was not created specifically to combat terrorism, the Criminal Matters (Mutual Assistance) Act can be used to facilitate international co-operation in this sphere. In terms of section 4, where a foreign jurisdiction is involved, the Attorney General may request the assistance of the appropriate authority of the foreign State. The legal assistance that may be sought depends on the nature of the case and the stage reached in pursuing it. The Act however entitles him or her to request:

-that assets believed to be the proceeds of crime that are located in the foreign State be 'frozen';
-that a search warrant for articles believed to be located in the foreign State and which may be relevant to investigations or proceedings in Swaziland be executed;
-the enforcement of a confiscation order emanating from Swaziland;
-that confiscated property or any proceeds realised from (its disposal or dealing with it) be transferred to Swaziland;
-the transfer to Swaziland authorities of a prisoner who consents to assist Swaziland in criminal investigations or proceedings.

The Attorney General has authority to make reciprocal undertakings on behalf of Swaziland.

Non-political crimes are extraditable in terms of the Extradition Act. In addition to the Extradition Act, the Fugitive Offenders (Commonwealth) Act provides that 'any person found in Swaziland who is accused of a relevant offence in any other country (designated country) ...., or who is alleged to be unlawfully at large after conviction of such an offence in such country, may be arrested and returned to such country....'
To this end Swaziland signed the UN Convention against Transnational Organised Crime in December 2000. The Convention has yet to be ratified.

Law enforcement co-operation, and the exchange of information
For a long time it has been apparent to law enforcement authorities in the SADC states that effective containment of organised crime requires co-operation of various agencies. In this regard, the initiatives of the Southern African Police Chiefs Co-operation Organisation (SARPCCO) anticipated Article 19 of the UN Convention Against Transnational Organised Crime. SARPCCO was set up to 'promote, strengthen and perpetuate co-operation and foster joint strategies for the management of all forms of cross-border and related crimes with regional implications.' Co-operation under the auspices of SARPCCO, and in terms of a Multilateral Agreement in Respect of Co-operation and Mutual Assistance in the Field of Crime Combating, which was signed in 1997, has yielded notable success in the spheres of motor vehicle theft and firearms smuggling. The agreement extends to terrorism.

SARPCCO intends to establish a central data collection unit at the Interpol sub-regional bureau in Harare, Zimbabwe to collect and analyse information on terrorism in the region and globally.

International Conventions/Agreements ratified or acceded to

Swaziland has either signed or ratified the following Agreements as stated against each Agreement-

AGREEMENT	DATE SIGNED	DATE RATIFIEED OR ACCEDED TO
1. Treaty Banning Nuclear Tests in the Atmosphere, In Outer Space and Under Water		28/4/1969
2. Treaty Establishing the African Nuclear Free Zone (Pelindaba Treaty)		13/11/1996
3. Treaty on Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof		9/8/1971
4. Convention on the Prohibition of the Development, Production and Stockpiling of Acteriological (Biological) and Toxin Weapons and their Destruction		9/8/1971
5. Convention of the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction		20/11/1996
6. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction	4/12/1997	NOT YET
7. Treaty on the Non-Prolifferation of Nuclear Weapons		11/12/1969
8 UN Convention Against Transnational Organized Crime	DEC. 2000	NOT YET
The following Agreements, which form an integral part of the fight against terrorism, have been acceded to (ratified) by Government in the sense that instruments of accession have been sent over to the Depositories as of the 28/3/2003.		
9. Convention on Offences and Certain other Acts Committed on Board an Aircraft	JULY, 1999	INSTR. DEPOSITED
10. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	JULY, 1999	INSTR. DEPOSITED
11. International Convention Against the Taking of Hostages		INSTR. DEPOSITED
12. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents		INSTR. DEPOSITED

13. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents		**INSTR. DEPOSITED**
14. International Convention for the Suppression of Terrorist Bombings		**INSTR. DEPOSITED**
15. International Convention for the Suppression of the Funding of Terrorism		**INSTR. DEPOSITED**

The inertia in ratification of the last of these probably motivated UN Sec Council Res. 1373/2001.

Question 5: Operative sub-paragraph 2(a): What legislative or other measures are in place to give effect to this sub-paragraph. In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorist? What other measures help to prevent such activities?

As above.

Question 6: Operative sub-paragraph 2(b): What other steps are being taken to prevent the commission of terrorist acts, and in particular what early warning mechanisms exist to allow the exchange of information with other States?

As a member of SARPCCO, and Interpol, any information on intelligence relating to terrorism is exchanged through existing channels and structures of these organisations.

Question 7: Operative sub-paragraph 2(c): What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken

The Internal Security Bill criminalizes harbouring, concealing, or failing to report insurgents, bandits, or saboteurs. It proposes to punish any of these acts by imprisonment of up to five years or E10 000 (approximately US$1 000).

Discretion exists in terms of the Immigration Act to deny entry to suspected or known terrorists. This is done by refusing them entry at the border posts and Matsapha International airport.

Question 8: Operative sub-paragraph 2(d): What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

The Internal Security Bill is expected to enable law enforcement authorities in Swaziland to counter the use of the country as a springboard to attack or commit acts of terrorism against other states, to the extent that any preparatory acts would be crimes against the law of Swaziland. In the interim period, the Arms and Ammunition Act, and the common law can be invoked against insurgents targeting foreign countries.

Provisions in Part V of the Bill (section 30) may be used to pre-empt the formation of armed militias with the potential to engage in terrorism internally or against foreign countries.

Question 9: Operative sub-paragraph 2(e) what steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

The Internal Security Bill addresses this question. The Bill is out for public debate, and has therefore not yielded any prosecutions.

Question 10: Operative sub-paragraph 2(f): What procedures and mechanisms are in place to assist other States? Please provide any available details on how these have been used in practice.

Swaziland is a landlocked country and is only shares its frontiers with only two countries, South Africa (south, west and north) and Mozambique (east). Extradition agreements have been concluded with various countries, as detailed below:

South Africa
4/09/1968 (updated 24/9/1993)

Mozambique (check dates?)

Apart from specific extradition arrangements with particular countries, Swaziland is party to the SADC Protocols on Extradition and Mutual Legal Assistance in Criminal Matters adopted at the SADC Summit in September 2002. The Criminal Matters (Mutual Assistance) Act 2001, described above, can also be used to render international assistance, as can the Fugitive Offenders (Commonwealth) Act (1969).

Question 11: Operative sub-paragraph 2(g): How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent forgery etc?

The Immigration Act (1982) regulates border controls in Swaziland. Swaziland shares land borders with Mozambique and South Africa.

There is no dedicated system in place at this stage for the unassisted identification of terrorists emanating from outside Swaziland.
Ports of entry are not yet computerised. Some of the twelve border posts are manned by police officers on behalf of the Department of Immigration. In between designated ports of entry, the Umbutfo Swaziland Defence Force is responsible for perimeter patrol, to prevent illegal entry, poaching, drug trafficking and smuggling. There are visa requirements for travellers from many countries, except much of the SADC region. Within the region, visa restrictions apply to visitors from Mozambique, Angola, and Mauritius.

The Interpol link in the RSP, which gives clearance in respect of crimes committed outside Swaziland subjects applications for Swazi passports to verification. Clearance in respect of local crimes is sought from the RSP intelligence unit. The Swazi passport carries certain security features, which can be detected by computer. Swaziland's identity documents can be read by computer, with the identity number as the reference feature against which the important statistics are recorded. For permanent residence applications, police clearance from the applicant's home country is required.

The Immigration Act does not specifically deal with the refusal of entry into Swaziland of suspected or known terrorists. It confers discretion on the Minster responsible for immigration to declare that a person who either:

- has been convicted in any country including Swaziland, of murder or any other offence for which he has been imprisoned (and has not been pardoned), or
- has individually or by membership of a given class, been named by any government or **any other reliable source,** to be classifiable as an undesirable immigrant or a person whose presence in Swaziland is contrary to the national interest,

is a prohibited immigrant.

Only non-citizens may be declared prohibited immigrants. A prohibited immigrant may not enter Swaziland without a prohibited immigrant's pass, issuable only by the Chief Immigration Officer with the approval of the Minister.

Notwithstanding that the Act was not specifically designed with global terrorism in mind, it could be invoked to take cognisance of lists of suspected or known terrorists and terrorist groups supplied by external jurisdictions, such as the United States Department of State, or entities such as the United Nations Security Council Sanctions Committee on Afghanistan. The visa and entry-stop system needs improvement if it is to cope with the growing demands of terrorism control. It would appear that there is bureaucratic red tape, which impedes the rapid transmission of such lists from their source(s) to the relevant Minister, which might require to be streamlined. It is unlikely that all border entry points in Swaziland have access to the prevailing lists.

The eligibility of applicants for identity documents in Swaziland is carefully checked and verified before they are issued.

The Common Monetary agreement, in so far as it is permissive of unrestricted currency movements across national borders in the rand monetary area, creates possibilities of

abuse, on which criminals could capitalise in order to finance the commission of crime in general and terrorism in particular. It is suspected that currency transmitted across borders has been used to fund the printing of fake passports.

SECTION: OPERATIVE PARAGRAPH 3

Implementation of Operative Paragraph 3 (a) to (g) of resolution 1373)

Question 1: What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

The Royal Swaziland Police use the structures of Interpol and SARPCCO to disseminate information on activities and or movements of known or suspected terrorists. These structures have been tried and tested in the spheres of forged and falsified documentation, arms trafficking and explosives.

Question 2: What steps have been taken to exchange information and co-operate in the areas indicated in this sub-paragraph?

Same as the answer to Question 1 above.

Question 3: What steps have been taken to co-operate in the areas indicated in this sub-paragraph?

The infrastructure for co-operation set out above comprises the steps taken in this regard.

Question 4: What are the Swaziland Government's intentions regarding the signing and/or ratification of the conventions and protocols referred to in this sub-paragraph?

The Executive has instructed the Ministry of Foreign Affairs to deposit the instruments of Accession of the nine pertinent Conventions to combating terrorism. Further, the Executive has instructed the Attorney General to draft a new and comprehensive Suppression of Terrorism Bill and such a Bill should be completed by the end of July, 2003.

Question 5: Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Same as above.

Question 6: What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

On arrival, an applicant for asylum is required to surrender to the security authorities at the point of entry and be screened by the police. Any illegal objects in their custody are withdrawn in accordance with the Refugee Control Order (1978) and the Arms and Ammunition Act (1967).

Following the security screening, an asylum seeker is brought to the Home Affairs Department for further screening in accordance with UN and OAU Conventions on refugees. The Refugee Section of Home Affairs is in contact with the UNHCR to get information in doubtful cases. Ultimately applications are referred to the Political Asylum Eligibility Committee, and thence to the Minister responsible for granting of refugee status.
In the event of an asylum seeker who has been involved in terrorist acts, the committee is likely to recommend deportation, in terms of the Refugee Control Order. (section 10(1) and (2))

Question 7: What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing request for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Refugee status may be revoked if the refugee is found to be a terrorist. The Police Intelligence branch is responsible for monitoring the activities of refugees. The branch, acting in liaison with the Chief Immigration officer and the Refugee Section, will normally activate revocation. This team presents a case to the responsible Minister for the withdrawal of refugee status. The refugee may be detained while the case is under investigation. If the case for revocation is established, the refugee is handed over to Immigration for deportation to his or her country of origin.

CONCLUSION/ ASSISTANCE.

1. The Country suffers from acute shortage of Legislative Draftspersons. Presently there is one experienced Draftsperson and two learner students. In such circumstances, it is difficult if not impossible for the one Draftsperson to attend to the legislative requirements of the country and more especially to incorporating the Conventions to national legislation. It could be helpful to get assistance in training three more Draftspersons and a refresher course for the other Draftsperson, probably at the International Legislative Drafting Institute, New Orleans, Louisiana, USA. They seem to offer good and modern legislative courses.

2. There is also the need to computerize the Border Entry points. Presently they are not computerized on the Swaziland side whilst they are on the South African side. Computerization of the Border entry points would be an added advantage in combating terrorism. Assistance in this field would be appreciated.

Friday, March 28, 2003
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